ATTORNEY DOCKET NO. 14114.0349U2
SERIAL NO. 09/758,308

REMARKS

Claims 1-6, 9-25 and 32-40 are pending in this application. Claim 3 is amended herein to depend from claim 10 and to more particularly define the invention. Support for these amendments can be found in the original claim language and in the specification. It is believed that these amendments add no new matter. Therefore, applicants respectfully request entry of these amendments.

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Response to Restriction Requirement

The Office Action requires restriction to one of six groups of claims, as follows:

I. Claims 1-6 and 23, drawn to an isolated peptide of HCV, classified in class 424, subclass 189.1.

II. Claims 9-22, 24-25, and 40, drawn to a mosaic polypeptide and a method for using the same comprising an isolated antigen epitope selected from different HCV protein, classified in class 424, subclass 228.1.

III. Claims 32-33 and 24-25, drawn to a mosaic polypeptide comprising two antigenic epitopes, classified in class 424, subclass 192.1.

IV. Claims 34-35, 24-25, drawn to a mosaic polypeptide comprising three antigenic epitopes, classified in class 424, subclass 185.1.

V. Claims 36-37, 24-25, drawn to a somaic polypeptide comprising fore epitopes selected from different HCV proteins, classified in class 424, subclass 202.

VI. Claims 38-39, drawn to a somaic polypeptide comprising an isolated epitope of HCV selected from different HCV protein and additional epitope of HCV core protein, wherein the

> polypeptide is not HCV polypeptide, classified in class 424, subclass 186.1.

In response, applicants provisionally elect Group II (claims 9-22, 24-25 and 40), drawn to a mosaic polypeptide and a method for using the same, with traverse. Applicants elect NS3 to be examined. Further, applicants herein amend claim 3 by adding the term "mosaic" and by depending claim 3 from claim 10. Claim 3, as amended, recites a polypeptide that falls within the scope of claim 10. Therefore, applicants respectfully request that currently amended claim 3 be included in Group II and examined accordingly.

Applicants further request that the restriction requirement be reconsidered because the Examiner has not shown that a serious burden would be required to examine all the claims. M.P.E.P. § 803 provides:

> If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) the search and examination of the entire application cannot be made without serious burden. See M.P.E.P. § 803.

In particular, the Examiner has not shown that the second requirement has been met. Specifically, the Examiner has not shown that it would be a serious burden to search and examine the groups together. Because little or no additional burden would be required to search and examine the groups together, applicants respectfully submit that the groups should be

searched and examined together. For these reasons, reconsideration and withdrawal of the restriction requirement are requested.

For the reasons stated above, applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the U.S. Patent and Trademark Office (PTO), and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Thus, applicants respectfully request that all of the claims of this application be examined together.